

**MINUTES OF THE
GREENSBORO BOARD OF ADJUSTMENT
JUNE 22, 2009**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, June 22, 2009 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building. The following Board members were present: Chair John Cross, Clinton Turner, Rick Pinto, Scott Brewington, Bill Strickland, Ryan Shell and Kelly Trexler. Staff present were: Rawls Howard, Zoning Administrator, Loray Averett, Zoning Services Coordinator, Carrie Reeves, G-DOT and Becky Jo Peterson-Buie, City Attorney's Office.

Chair Cross called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method of appealing any ruling made by the Board. Chair Cross also advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

Chair Cross welcomed Kelly Trexler as the newest member of the Board.

ELECTION OF OFFICERS

Chair Cross nominated Rick Pinto to serve as Chairman of the Board, seconded by Mr. Brewington. The Board voted unanimously in favor of the nomination.

Mr. Strickland nominated Russ Parmele to serve as Vice Chairman of the Board, seconded by Mr. Pinto. The Board voted unanimously in favor of the nomination.

APPROVAL OF MINUTES

Mr. Pinto moved to approve the May 26, 2009 meeting minutes as written, seconded by Mr. Strickland. The Board voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Rawls Howard and Loray Averett were sworn in for their testimony related to matters listed on the agenda.

OLD BUSINESS: None

NEW BUSINESS

Chair Cross stated that he would recuse himself from the next four (4) items. The Board voted unanimously in favor of the recusal.

VARIANCE

- (a) **BOA-09-14: 4700 WEST MARKET STREET M. M. Fowler Inc., requests a variance from an interior setback requirement. *Violation:* A proposed convenience store will encroach 10 feet into a minimum 10-foot interior setback. Table 30-4-6-5, Present Zoning-HB, BS-116, Cross Street-Muirs Chapel Road. (GRANTED)**

Rawls Howard stated that the applicant is requesting a variance from an interior setback. A proposed convenience store will encroach 10 feet into a 10-foot minimum interior setback. The property is located at the northwestern intersection of West Market Street and Muirs Chapel Road on zoning map block sheet 116 and is zoned HB. The property contains a BP Convenience Store with fuel pumps and an accessory car wash. The applicant is proposing to demolish the existing buildings and rebuild the site. The minimum building setback adjacent to nonresidential zoning is 10 feet. The applicant is proposing to locate the structure adjacent to the lot line. Guilford County tax records indicate the existing building was constructed in 1990. The lot is rectangular shaped and contains approximately 17,500 square feet. The lot is a corner lot. West Market Street is classified as a major thoroughfare and Muirs Chapel Road is classified as a minor thoroughfare. These minimum setback requirements are greater distances than normally required, because of the road classifications. Road widening has also occurred since the original development. Due to providing stacking spaces, permanent spaces, back-up aisles, driveway locations, and travel flow, the applicant has become restricted with his building footprint. The existing store and carwash contains approximately 1,800 square feet. The new store will contain approximately 2,100 square feet. The carwash portion is not being proposed to be rebuilt. There is a restaurant parking lot located adjacent to the lot line where the variance for the encroachment is being requested. The HB, Highway Business District is primarily intended to accommodate retail, service, and distributive uses which are typically located along thoroughfares. This district is established to provide locations for establishments which cater primarily to passing motorists and require high visibility and good road access. Developments in this district generally have substantial front setbacks.

All testimony from the applicants on case BOA-09-15 and BOA-09-15 were combined under case BOA-09-15.

Mr. Brewington moved that in regard to BOA-09-14, 4700 West Market Street, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled in the variance granted based upon the following: There are practical difficulties or unnecessary hardships as a result for the caring out of the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance, he can make no reasonable use of this property because over the years though condemnation and expansion of the roadway the property has been reduced. There have been attempts by the present owner to purchase additional space. In its current configuration and due to the age of the facility it is in need of being replaced and modernized. The hardship in which the applicant complains results from the unique circumstance related to the applicants property because as mentioned over the time West Market St. has been expanded. The existing location is nonconforming and they are working with the city to make sure they can get as much on this property as they can. The hardship is not a result of the applicants own actions. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit. The granting of the variance assures the public safety and welfare and does substantial justice because as presented they have worked with the Greensboro department of transportation to insure safe access through the property, seconded by Mr. Shell. The Board voted 6-0-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None. Abstained: Cross.)

- (b) **BOA-09-15: 4700 WEST MARKET STREET M. M. Fowler Inc., requests a variance from the minimum number of stacking spaces required for pump islands. Violation: The applicant is proposing to provide 8 stacking spaces while the Ordinance requires 12 stacking spaces; therefore a variance for 4 stacking spaces is requested. Table 30-5-3-1, Present Zoning-HB, BS-116, Cross Street-Muirs Chapel Road. (GRANTED)**

Rawls Howard stated that the applicant is proposing to provide fewer stacking spaces than is required by the Ordinance. Each side of the pump island is required to provide 2 stacking spaces. The applicant is proposing to provide 8 spaces. The existing island contains a total of 6 pump stations which would require 12 stacking spaces; thus the applicant is requesting a variance for 4 stacking spaces. The property is located at the northwestern intersection of West Market Street and Muirs Chapel Road on zoning map block sheet 116 and is zoned HB. The property contains a BP Convenience Store with fuel pumps and an accessory car wash. The applicant is proposing to demolish the existing buildings and rebuild the site. The minimum size requirement for a stacking space is 9 feet x 20 feet. The applicant is proposing to provide 8 stacking spaces while the Ordinance requires 12 stacking spaces; thus, requesting a variance for 4 stacking spaces. The zoning office met with the site engineers and David Ortega EIT, Design Review Engineer with the Greensboro Department of Transportation in reference to reducing the number of stacking spaces from 12 spaces to 9 spaces. The GDOT design reviewer is supportive of the stacking reduction request. Due to the location of the proposed building, providing permanent spaces, back-up aisles, driveway locations, and travel flow, the applicant could not change the pump locations, or provide more stacking spaces for fuel islands. The applicant has proposed to reduce the width of the most western driveway located on W. Market from 33 feet to 26 feet. The applicant has also provided a new cross access to the retail business (Burger King Restaurant) located on his western lot line. The existing carwash is not planned to be re-constructed based on the proposed site plan. The HB, Highway Business District is primarily intended to accommodate retail, service, and distributive uses which are typically located along thoroughfares. This district is established to provide locations for establishments which cater primarily to passing motorists and require high visibility and good road access. Developments in this district generally have substantial front setbacks.

Vice Chair Pinto asked if there was anyone wishing to speak on this matter.

Chad Huffine, Civil Engineer for the project was sworn in and stated that the new footprint of the new building will be larger without a car wash. More room will be provided at the front of the store and between the pumps than what is there currently. The reason for this project is merely the age of the facility itself and the desire to build a new convenient store that is more modern and up to date. A hurdle to overcome is the fact that in the current configuration of the site is a nonconforming site.

Marvin Barnes, CEO of MMFowler Inc. stated that he is here for the board to know that this project is important to him and his business and is willing to answer all of the boards concerns in this matter. Mr. Strickland asked if contact was made with the owner of the Burger King. A couple of years ago Mr. Barnes was interested in buying a portion of the Burger King parking lot that is behind the car wash and they had no interest in selling but have not been contacted specifically for the current proposal. Burger King has only been notified through the city.

There was no one speaking in opposition to the request.

Mr. Brewington moved that in regard to BOA-09-15, 4700 West Market Street, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled and variance granted based upon the following; recommendations from BOA-09-14 are incorporated with an addition to reduce the minimum number of stacking spaces from 12 to 8, seconded by Mr. Strickland. The Board voted 6-0-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None. Abstained: Cross.)

(c) BOA-09-16: 5601 WEST FRIENDLY AVENUE M. M. Fowler Inc., requests a variance from a special thoroughfare setback requirement. *Violation: A proposed convenience store will encroach 20 feet into a minimum 100-foot centerline setback. Section 30-4-7.3, Present Zoning-SC, BS-165, Cross Street-Dolley Madison Road. (GRANTED)*

Rawls Howard stated that the applicant is requesting a variance from a special thoroughfare setback requirement. A proposed convenience store will encroach 20 feet into a 100-foot centerline setback. The property is located at the southwestern intersection of West Friendly Avenue and Dolley Madison Road on zoning map block sheet 116 and is zoned SC (Shopping Center). The property contains a BP Convenience Store with fuel pumps and an accessory car wash. The applicant is proposing to demolish the existing buildings and rebuild the site. The setback for this portion of Friendly Avenue is 100 feet from the centerline. The proposed building will be located 80 feet from the centerline of West Friendly Avenue. The existing store building is located 35 feet from the property line and the proposed new building will be located approximately 44 feet from the property line. The requested encroachment is 9 feet less than the existing building. Guilford County tax records indicate the existing building was constructed in 1989. The lot is square shaped and contains approximately 15,500 square feet. The lot is a corner lot. This portion of West Friendly Avenue has a special thoroughfare setback, which requires all buildings to be located 100 feet from the centerline. Dolley Madison Road is classified as a collector street. Road widening has occurred since the original development. Due to providing stacking spaces, permanent spaces, back-up aisles, driveway locations, and travel flow, the applicant has become restricted with his building footprint. The existing store and carwash contains approximately 1,450 square feet. The new store will contain approximately 1,800 square feet. The carwash portion is not being proposed to be rebuilt. The SC, Shopping Center District is primarily intended to accommodate a wide range of high intensity and service developments meeting the shopping needs of the community and the region. The district is established on large sites to provide locations for major developments which contain multiple uses, shared parking and drives, and coordinated signage and landscaping.

All testimony from the applicants for case BOA-09-16 and BOA-09-17 were combined under case BOA-09-17.

Mr. Brewington moved that in regard to BOA-09-16, 5601 West Friendly Avenue, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled and variance granted based upon the following: There are practical difficulties or unnecessary hardships as a result for the caring out of the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance, he can make no reasonable use of this property. Similar to the case we previously heard we have an older property where the roadways have been expanded over time thus reducing the footprint of the property. In order to bring this facility up to modern standards it requires this variance and if we do not grant this variance this facility will cease to be a modern facility.

The hardship of which the applicant complains results from the unique circumstance related to the applicants property. The encroachment to the roadway over time and overall shape of the property is noncompliant as it is. The hardship results from the application of this ordinance to the property because the unique circumstance. The hardship is not a result of the applicants own action. The footprint of this property has been reduced overtime and is not the applicants doing. The variance is in harmony with the general purpose and intent of this ordinance and it preserves its spirit because the applicant has worked closely with GDOT to insure safety of access to property. They are reducing one entrance to the property at a very busy intersection as well as moving the property back in trying to do as much as they can to improve the overall access to the property, safety of the property, and the general appearance. The granting of this variance assures the publics safety and welfare and does substantial justice, seconded by Mr. Turner. The Board voted 6-0-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None. Abstained: Cross.)

- (d) **BOA-09-17: 5601 WEST FRIENDLY AVENUE M. M. Fowler Inc., requests a variance from the minimum number of stacking spaces required for pump islands. *Violation:* The applicant is proposing to provide 8 stacking spaces while the Ordinance requires 16 stacking spaces; therefore a variance for 8 stacking spaces is requested. Table 30-5-3-1, Present Zoning-SC, BS-165, Cross Street-Dolley Madison Road. (GRANTED)**

Rawls Howard stated that the applicant is proposing to provide lesser stacking spaces than is required by the ordinance. Each side of the fuel pump is required to provide 2 stacking spaces. The applicant is proposing to provide 8 spaces. The existing island contains a total of 8 pump stations which would require 16 stacking spaces; thus the applicant is requesting a variance for 8 stacking spaces. The property is located at the southwestern intersection of West Friendly Avenue and Dolley Madison Road on zoning map block sheet 116 and is zoned SC (Shopping Center). The property contains a BP Convenience Store with fuel pumps and an accessory car wash. The applicant is proposing to demolish the existing buildings and rebuild the site. The minimum size requirement for a stacking space is 9 feet x 20 feet. The applicant is proposing to provide 8 stacking spaces while the ordinance requires 16 stacking spaces; thus, requesting a variance for 8 stacking spaces. The zoning office met with the site engineers and David Ortega EIT, Design Review Engineer with the Greensboro Department of Transportation in reference to reducing the number of stacking spaces from 16 spaces to 8 spaces. The GDOT design reviewer is supportive of the stacking reduction request. Due to the location of the proposed building, providing permanent spaces, back-up aisles, driveway locations, and travel flow, the applicant could not change the pump locations, or provide more stacking spaces for fuel islands. The applicant has proposed to change the widths of the driveway located along Dolley Madison Road and to close one of the existing driveways located adjacent to the Friendly Avenue right-of-way. Guilford County tax records indicate the existing building was constructed in 1989. The lot is square shaped and contains approximately 15,500 square feet. The SC, Shopping Center District is primarily intended to accommodate a wide range of high intensity and service developments meeting the shopping needs of the community and the region. The district is established on large sites to provide locations for major developments which contain multiple uses, shared parking and drives, and coordinated signage and landscaping.

Vice Chair Pinto asked if there was anyone wishing to speak on this matter.

Chad Huffine, 505 East David St. Burlington, stated that they have worked with staff in order to move the building as far back and away from the street as possible. He also worked with GDOT to close the entrance off of West Friendly Ave. They wanted to put as many stacking spaces as they could around the pump islands without encroaching into the circulation around the pumps and store building itself.

In response to questions, Carrie Reeves, GDOT, stated that the reason for supporting the reduction in stacking to 50% was due to being able to close one driveway which in return reduced the conflict along the major thoroughfares and if they were to just to do a building up fit and nothing else we could not get any more stacking. This should at least bring an improvement to this situation.

There was no one speaking in opposition to the request.

Mr. Brewington moved that in regard to BOA-09-17, 5601 West Friendly Avenue, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled and variance granted based upon the facts as submitted in the previous BOA-09-16 to be incorporated into BOA-09-17 of which the request is to reduce the amount of stacking spaces from 16 to 8, seconded by Mr. Strickland. The Board voted 6-0-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None. Abstained: Cross)

Chair Cross stated that he would need to be recused from the following item. The Board voted unanimously in favor of his recusal.

- (i) **BOA-09-22: 1900 LAFAYETTE AVENUE Donald and Margaret White request a variance from a side setback requirement. Violation: A proposed attached garage will encroach 6 feet into a minimum 10-foot side setback. Table 30-4-6-1, Present Zoning-RS-12, BS-10, Cross Street-Pembroke Road. (GRANTED)**

Rawls Howard stated that the applicant is requesting a variance for an attached garage that will encroach 6 feet into a 10-foot side setback. The property is located at the end of the cul-de-sac on Lafayette Avenue north of Dover Road on zoning map block sheet 10. The property is currently zoned RS-12 (Residential Single Family, 12,000 square feet per lot). Tax records indicate the house was built in 1963. The applicant is proposing to construct an attached garage to the front portion of the existing home. A portion of the side of the garage will encroach 6 feet into a 10-foot side setback. The drawing as submitted by the applicant is not drawn to scale; however, it appears the proposed garage will accommodate four cars. The lot is oddly shaped. The garage addition is proposed to be constructed on the eastern side of the property. The eastern lot line juts out immediately north of the proposed garage location, thus the northern portion of the proposed garage is not encroaching. The same eastern lot line then angles back in and continues to the rear property line creating a rear triangular point. The RS-12, Residential Single-Family District is primarily intended to accommodate moderate density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density on RS-12 will typically be 3.0 units per acre or less.

Vice Chair Pinto asked if there was anyone wishing to speak on this matter.

Derek Allen, attorney representing the applicants, was sworn in and stated that the applicant are asking for a relief from the side building set back line. The applicants purchased this home in 2006 which was built in 1963 and is in dire need of modernization to keep up with the neighborhood. There are many lots that are wedged shaped that create and issue with making use of the space without cutting at least corners in to the side yard set backs. Renovations include modernizing the kitchen, eating area, living space, and providing an attached garage. The existing car port will be demolished. The current plan as the least intrusion into the side yard or front yard set backs and violates the letter of ordinance by 6 feet at the most. Mr. Allen presented petitions that have been signed and then verified in terms of attestation to those signatures by Mr. White. The petitions have signatures from every property owner in the cul-de-sac area that says that they do support the variance with no objections. The reasons that support the variance are as follows: we don't think its reasonable to be unable to update an older home with modern amenities because of something that was done well before the ordinance was ever adopted, we don't think is reasonable to apply provisions to the ordinance when the underlying reasons for having this part of the ordinance in the first place are not served, and we don't think reasonable to apply technical provision of the ordinance that is suppose to protect aesthetics and property values when all of the neighbors in the area who have to be looking at the property approve of the project and think that it will make it look better. The hardship exists because of something that's related to the applicants property, in this case when the road was closed and the cul-de-sac was created, this wedged shaped lot was created. The placement of the existing drive in relation to the house as well as the structure has brought them to this situation. The construction was done well before they moved in. The granting of this variance will allow the White's to construct an extension in addition to wishes of their neighborhood that compliments the aesthetics of the existing neighborhood. There is nothing in the design of the proposed addition that will cause any concern for public welfare or safety. Mr. Allen assured Mr. Pinto that the garage will not be two stories. Mr. Turner asked why not build the garage back a little bit and have a two or three car garage as to one that would access four cars. Mr. Allen stated that the way the plan was set up they were trying to keep the walls inconformity instead of having protrusions coming in and out of the structure. Mr. Strickland asked if the current carport is attached and if it encroaches. Mr. Allen stated that it is attached and it may encroach a few inches.

Donald White, 1900 Lafayette Avenue, was sworn in and stated that they had been through three different plans before deciding on the current plan. The current carport on the property in almost unusable due to the cars being hit by golf balls from the golf course.

There was no one speaking in opposition to the request.

Mr. Brewington moved that in regard to BOA-09-22, 1900 Lafayette Avenue, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled and variance granted based upon the following: there are practical difficulties or unnecessary hardships as a result for the caring out of the strict letter of this ordinance. If the applicant complies with the strict letter they will be precluded from constructing this renovation which has received support from the neighbors and giving them an enclosure that replaces a structure that is well dated and in need of being replaced. Such preclusion would make it unable to reasonably use the property. The Hardship of which the applicant complains results from unique circumstances related to the applicants property. These hardships are solely from the unique configuration of the lot. The hardship results from the application of this ordinance to the property because the unique circumstance. The hardship suffered by the applicants results directly from applying the side set back requirements. The hardship is not a result of the applicants own action by is a result of the

configuration of the property and the existing house. The variance is in harmony with the general purpose and intent of this ordinance and it preserves its spirit by eliminating an unsightly carport which is in need of replacement and attaching a garage that meets practically every other set back requirement and is supported by its neighbors. The granting of this variance assures the public's safety and welfare and does substantial justice. There is nothing related to this application that otherwise adversely affects the safety or welfare of the public, seconded by Mr. Strickland. The Board voted 6-0-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None.)

Chair Cross returned to the podium to participate in the remainder of the items on the agenda.

- (e) **BOA-09-18: 124 BEVERLY PLACE Joseph and Patricia Giaritelli. request a variance from a side setback requirement. *Violation: A proposed attached garage will encroach 2.5 feet into a minimum 10-foot side setback. Table 30-4-6-1, Present Zoning-RS-12, BS-47, Cross Street-Madison Avenue. (GRANTED)***

Rawls Howard stated that the applicant is requesting a variance for an attached garage that will encroach 2.5 feet into a 10-foot side setback. The property is located on the east side of Beverly Place south of Madison Avenue on zoning map block sheet 47. The property is currently zoned RS-12 (Residential Single Family, 12,000 square feet per lot). Tax records indicate the house was built in 1939. The applicant is proposing to construct a room addition along with an attached garage. The front corner of the garage is proposed to encroach into the minimum side setback. The garage is proposed to be 22 feet wide by 30 feet in length. The square footage for the garage will be 660 square feet. The lot is rectangular in shape and contains twice the depth than the width. As the depth increases the lot width decreases. The street frontage is approximately 74 feet and the width of the rear lot line is 60 feet. The lot contains approximately 15,900 square feet. The existing house appears to have been constructed at an angle that is parallel to the street. The RS-12, Residential Single-Family District is primarily intended to accommodate moderate density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density on RS-12 will typically be 3.0 units per acre or less.

Chair Cross asked if there was anyone wishing to speak on this matter.

Joe Giartelli, the applicant, was sworn in and stated that they would like to have the current garage removed and replace it with a better one. Mr. Cross wanted to make it clear that the garage is on the back of the property that is narrower and wondered where they would be accessing the garage from. Mr. Giartelli stated that they would access it from Beverly Place. The board asked if he looked at pulling the new garage over toward where the existing garage is. He did but the further it would go north on the property the less space they would have to back out. The existing garage has a worse violation than the proposed garage placement. There are no objections from the neighbor that Mr. Giartelli is aware of.

There was no one speaking in opposition to the request.

Mr. Strickland moved that in regard to BOA-09-18, 1900 Lafayette Avenue, the finding as submitted by staff be incorporated and that the zoning enforcement officer be overruled and the variance

granted based upon the following: There are practical difficulties or unnecessary hardships as a result for the caring out of the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance they can make no reasonable use of their property for the following reasons; due to the narrowness of the lot it is very difficult to place a garage onsite, there is already a garage onsite which is not in conformity with the set back requirements, and this is a minor encroachment of the variance. The placement of the garage would also benefit the preservation of an older tree on the property. There is no objection to the variance from the neighbor. The hardship of which the applicant complains results from those unique circumstances. The hardship also results from the application of the ordinance for the reasons already set forth. It is not a result of the applicants own actions. This variance is in harmony with the general purpose and intent and perseveres its spirit for the reasons already listed. The granting of the variance assure the public safety and welfare and does substantial justice in that it gets rid of a building that is of a worse compliance and allows the homeowners and guests to turn around in the driveway and come out onto the road face forward which would promote their safety and other motorists and pedestrians crossing Beverly Place. The motion was seconded by Mr. Brewington. The Board voted 7-0 in favor of the motion. (Ayes: Cross, Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None.)

- (f) **BOA-09-19: 2408 RETRIEVER LANE Keith and Sherri Hill request a variance from a rear setback requirement. *Violation:* A proposed attached screened porch will encroach 9 feet into a minimum 15-foot rear setback. Table 30-4-6-1 and Section 30-4-6-1(D)(2)(b), Present Zoning-RS-12(CL) , BS-230, Cross Street-Lake Brandt Road. (DENIED)**

Rawls Howard stated that the applicant is requesting a variance for an attached screened porch that will encroach 9 feet into a 15-foot rear setback. The property is located on the north side of Retriever Lane west of Lake Brandt Road on zoning map block sheet 230. The applicant is proposing to construct a sunroom addition at the rear of the existing house. The addition will encroach 9 feet into a 15-foot rear setback. The property is currently zoned RS-12(CL) (Residential Single Family with Cluster Zoning Development option). The property was eligible to develop using cluster zoning requirements. The lot size and setbacks were reduced to the RS-7 zoning district requirements. The objective of cluster development is to place houses closer together on smaller lots than normally permitted in the zoning district and to place land which would otherwise have been included in private lots into public dedication or common elements for open space. Building Permit records indicate the house was built in 2004. The lot contains approximately 7,400 square feet. The current rear setback requirement for RS-7 is 20 feet, however, Section 30-4-6-1(D)(2)(b) states: "Rear setbacks may be reduced to fifteen (15) feet if rear property lines abut public drainageway and open space areas or if rear property lines abut common elements open spaces at least thirty (30) feet in width." The rear of this lot abuts common elements that exceed thirty 30 feet in width. Based on ordinance standards, the applicant's required rear setback is 15 feet. The RS-12(CL), Residential Single-Family District is primarily intended to accommodate moderate density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density in RS-12(CL) will typically be 3.0 units per acre or less. The lot size and building setbacks are permitted to use the RS-7 requirements.

Chair Cross asked if there was anyone wishing to speak on this matter.

Keith and Sherri Hill, the applicants, were sworn in and stated that they are wanting to screen in and cover the existing patio as well and expand it a little deeper to the side of the property. Mr. Pinto made the applicants aware of the private restriction of no building shall be erected or allowed to remain on any lot within 25 feet of the rear line of the lot. This is a privately agreed upon restriction with the other land owners in the community therefore it is not in the boards jurisdiction. One reason for this project is due to the lack of trees or shade on the property and Mr. Cross brought up the question of why not plant some trees. Mr. Hill responded that it would take a while for the trees to grow to be used as shade as well as there is a retention pond nearby that brings about mosquitoes. Mr. and Mrs. Hill stated that there is unreasonable use of the patio due to the hot sun. They cannot step out onto the patio in the afternoon. There is constant sun on the patio during the day and the only time they can make use of it is after 8pm.

Mobolaji Bakare, 2415 Retraver Lane, stated that he is one of the applicants neighbors and has no objections to their proposal. He has a screened in porch as well and recommends it.

There was no one speaking in opposition to the request.

Mr. Brewington moved that in regard to BOA-09-19, 2408 Retriever Lane, the findings as submitted by staff be incorporated and that the zoning enforcement officer be upheld and the variance be denied based upon the following: There are practical difficulties or unnecessary hardships as a result for the caring out of the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance they can make no reasonable use of the property. We find that there would be reasonable use of the property if the variance is denied. The motion was seconded by Mr. Pinto. The Board voted 6-1 in favor of the motion. (Ayes: Cross, Brewington, Pinto, Strickland, Shell and Trexler. Nays: Turner.)

- (g) BOA-09-20: 2111 ABBOTT DRIVE Carol Umbs requests a variance from a rear setback requirement. Violation: A proposed attached screened porch will encroach 5 feet into a minimum 20-foot rear setback. Table 30-4-6-1, Present Zoning-RS-12(CL), BS-174, Cross Street-Lake Jeanette Road. (DENIED)**

Rawls Howard stated that the applicant is requesting a variance for an attached screened porch that will encroach 5 feet into a 20-foot rear setback. The applicant is proposing to construct a screened porch addition at the rear of the existing house. The addition will encroach 5 feet into a 20-foot rear setback. The screened porch addition is proposed to be 16 feet x 21 feet for a total area of 336 square feet. There is a 15-foot drainage and utility easement located at the rear of the applicant's lot. The applicant is proposing to build to the easement line, but not in the easement. The property is currently zoned RS-12(CL) (Residential Single Family with Cluster Zoning Development option). The property was eligible to develop using cluster zoning requirements. The lot size and setbacks were reduced to the RS-7 zoning district requirements. The objective of cluster development is to place houses closer together on smaller lots than normally permitted in the zoning district and to place land which would otherwise have been included in private lots into public dedication or common elements for open space. Building Permit records indicate the house was built in 2001. The lot contain approximately 8,500 square feet. The rear of this lot does not abut any common space or common elements area. There is another lot abutting the rear of the applicant's property. The RS-12(CL), Residential Single-Family District is primarily intended to accommodate moderate

density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density in RS-12(CL) will typically be 3.0 units per acre or less. The lot size and building setbacks are permitted to use the RS-7 requirements.

Chair Cross asked if there was anyone wishing to speak on this matter.

Carol Umbs, the applicant, was sworn in and stated that next to her lot is a wooded area that is home to swarms of mosquitoes and she also had the smallest lot in the neighborhood. There is an existing patio on the property that will not be expanded as she just wants to cover the patio. The plan she chose for the patio matches the look of the house and also with the aesthetics of the property. She has tried fogging and citronella candles to no avail and believes it is hard to make use of the patio due to the mosquitoes. Her neighbor had a screened in patio for this reason. Her homeowners association is in favor of the plan as well as her neighbor that is part of another subdivision.

Mr. Pinto asked if she had considered a 11 by 21 foot screened in patio that she could do without coming before the Board. She has considered it but does not believe it is large enough to accommodate her patio furniture.

There was no one speaking in opposition to the request.

Mr. Pinto moved that in regard to BOA-09-20, 2111 Abbott Drive, the findings as submitted by staff be incorporated and that the zoning enforcement officer be upheld and the variance be denied based on the fact that if the applicant complies with the provisions of the ordinance she can still make reasonable use of her property, seconded by Mr. Brewington. The Board voted 7-0 in favor of the motion. (Ayes: Cross, Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None.)

At this time there was a break between 4:07 and 4:13 p.m. Mr. Strickland left for the remainder of the meeting. As Mr. Strickland was not formally excused, it will show as an affirmative vote.

- (h) **BOA-09-21: 7825 NATIONAL SERVICE ROAD Highwood Properties requests a variance from the maximum sign height requirement. Violation: A proposed freestanding identification sign will exceed the maximum height (which is 15 feet) by 15 feet, for a total height of 30 feet. Table 30-5-5-2, Present Zoning-CP, BS-432, Cross Street-I-40 East & West. (GRANTED)**

Rawls Howard stated that the applicant is requesting a variance for a proposed sign to be 30 feet tall, exceeding the allowable height of 15 feet by 15 feet. The property is located on the south side of National Service Road south and west of Interstate 40 East on zoning map block sheet 432. The applicant is proposing to erect a freestanding identification sign adjacent to National Service Road which will be 30 feet tall instead of 15 feet which is the maximum height permitted for this zoning district. The property is currently zoned CP (Corporate Park). The Corporate Park zoning district permits freestanding signs for each zoned lot to be 15 feet tall. This zoning district also only allows one freestanding sign per lot frontage. The applicant has submitted a drawing that shows the existing monument sign which is 5 feet 7 inches tall and identifies Volvo, along with a drawing that shows a proposed replacement sign that is requested to be 30 feet tall, which will identify Mack Trucks. The applicant has indicated the Volvo sign will be removed. Guilford County Tax records

indicate the property was developed in 1984. The property was developed as part of an office setting that was known as Airpark East and West. The 1992 citywide rezoning for CP (Corporate Park) was initiated and approved. The lot contains approximately 7.9 acres. A large portion of this lot is located in the NC Highway 68 Scenic Corridor Overlay District. A copy of this section has been included in each member's packet. A copy of the zoning map that clearly shows the portion of the property in the NC 68 overlay is attached to this report. Section 30-4-4.3(D)(4)(viii) states: "For lots adjoining the Interstate 40 right-of-way, or lots located on a service road that physically adjoins the Interstate 40 right-of-way, freestanding signs shall conform to the underlying zoning district size and height requirements of Table 30-5-5-2." This is applicable to this property and thus the proposed sign is required to meet minimum CP sign requirements or be granted a variance from the minimum height requirement. The CP, Corporate Park District is primarily intended to accommodate office, warehouse, research and development, and assembly uses on large sites in a planned campus like setting compatible with adjacent residential uses. The district may also contain retail and service uses which customarily locate within planned employment centers.

Chair Cross asked if there was anyone wishing to speak on this matter.

Vince Cvijanovic, 3125 Spring Garden St., was sworn in and stated that his client is Mac Trucks and this is proposed to be their global headquarters. The nature of the property is heavily wooded and the building is hard to see from the highway. If the sign is only allowed to be 15 feet tall it will be hard to see as well. This may present a safety issue because there will be a lot of people coming into town from local areas and all around the world looking for this company. They believe that allowing the variance will be beneficial to the community. There are other 30 foot signs in the area but these locations have different zoning and are not part of the overlay.

Mike Reardon, Vice President for MacTrucks, stated that the company's headquarters is in Pennsylvania and has been for 100 years and are now moving in August to Greensboro. They are part of the Volvo group. It is very important to the company how they are positioned in the Greensboro market. There are many issues of why they need the signage to be 30 feet. One issue is that the employees need to be able to see the sign from I-40. The sign they are wanted to put there is a standard sign they use at other facilities.

Lee King, 7900 National Service Rd., Corporate Security Director of Volvo, The 15 foot sign height is challenging, in that, as you are going east bound on I-40, the level of the interstate is much higher than National Service Rd. which causes a loss of dramatic effect as identifying this building as the Mac world headquarters. The Mac sign will also be further from the interstate than the Volvo sign and even at 30 feet it will still be less effective than the Volvo sign due to the topography of the land. Volvo supports the 30 foot sign.

Helen Cofen, Vice President of Greensboro Economic Development Alliance, states that she is here on behalf of both the Volvo group and MacTrucks. One of the things she works very hard to do is attract corporate headquarters to our community. It is absolutely huge to have MacTrucks global headquarters moving to Greensboro. The real issue for the board other than the points already made is consistency in the sister organizations of Volvo and Mac, having the signage at the same level makes sense from several views. It is important to have that consistent look between the two companies and in keeping with Transource, which is down the road with a 30 foot sign.

There was no one speaking in opposition to the request.

The board discussed the strangeness of the fact that all these properties are zoned differently. Volvo is zoned light industrial, and then right beside it is zoned as corporate park has no discernable difference and gets a double whammy of an overlay. This property has evolved from a corporate park to corporate headquarters and the sign would be in harmony with the other signs that are down that road. The property should be rezoned since it is not being used as a corporate park anymore. The placement of the sign is really close to the industrial zoning that would allow a 30 foot sign.

Mr. Pinto moved that in regard to BOA-09-21, 7825 National Service Road, the finding as submitted by staff be incorporated and that the zoning enforcement officer be over ruled and the variance be granted to allow a height for a sign to be up to 30 feet based upon the following: There are practical difficulties or unnecessary hardships that result from carrying out the strict letter of this ordinance. If the applicant complies with the provisions of the ordinance it can make no reasonable use of it property for the following reasons: this is the world headquarters of MacTruck. MacTruck is a sister corporation to Volvo Trucks which is located immediately to its west nest door. Volvo has a 30 foot sign advertising its world headquarters. This board deems it appropriate that MacTruck be allowed to have a 30 foot sign signifying its world headquarters. In addition, the adjacent property is zoned light industrial which allows 30 foot signs and the property all the way to the west and continuing is light industrial allowing 30 foot signs. The area where the sign is to be located is on the western boarder of the property almost adjacent to the light industrial sign so we feel it is consistent with the use to the west of this property. There are unique circumstances surrounding this property. One is the topography, specifically the height of Regional Rd, and the height of I-40, Regional Rd. dips below I-40, making it difficult to see a lower sign. This could possibly create a safety hazard for people who are looking to find the headquarters. There are trees all around this building such that if you place signage in other areas other than the entrance, that signage would not be able to be seen from either I-40 east bound or Regional Road. The hardship of which the applicant complains results from the unique circumstances that were just related. The hardships result from the application of this ordinance to the property for the reason just stated. A portion of the property is in the Highway North Carolina 68 scenic corridor overlay and this board has taken that into account but the height requirements for the overlay are the same as for the CP zoning requirement of 15 feet. The board views this as a unique circumstance in the fact that this property is going to be used as a world headquarters. This is kin to the Volvo property and the properties to its west as opposed to being more similar to the properties that are part of the corporate park zoning that is to the east. This hardship is not the result of the applicants own actions. This variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit. The granting of this ordinance for the reasons set forth before, assures public safety and welfare and does substantial justice, seconded by Mr. Shell. The Board voted 6-1 in favor of the motion. (Ayes: Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: Cross.)

SPECIAL EXCEPTION

- (a) **BOA-09-23: 511 LAMA STREET Reccille Beamon requests a Special Exception as authorized by Section 30-5-2.37(B) to allow a separation of 610 feet from one family care home (6 or less persons) to another family care home (6 or less persons) when 1,320 feet is required. Present Zoning-RS-9, BS-19, Cross Street-Randleman Road. (GRANTED)**

Loray Averett stated that the applicant is proposing to locate a family care home 610 feet from an existing family care which is located at 617 Marsh Street. The minimum spacing separation requirement is 1,320 feet. It is 710 feet too close. The lot is located on the south side of Lama Street east of Randleman Road on zoning map block sheet 19. It is zoned RS-9 (Residential Single Family-9). The applicant is proposing to locate a family care home (6 or less persons) at 511 Lama Street it is approximately 610 feet from an existing family care home, which is located at 617 Marsh Street. The homes are required to be separated by a minimum radius of $\frac{1}{4}$ mile, which is 1,320 linear feet. This location does not meet the minimum spacing requirement by 710 feet. The homes will be separated by other homes, a major thoroughfare (Randleman Rd.), and environmental buffers. The RS-9, Residential Single-Family District is primarily intended to accommodate moderate to high density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density in RS-9 will typically be 4.0 units per acre or less.

Chair Cross asked if there was anyone wishing to speak on this matter.

Ricci Beamon, the applicant, 5406 Rambling Rd., was sworn in and stated that she was respectfully requesting that this variance be granted so that they can continue to operate that location as a business. For the past 16 years she has operated a children's daycare center. In 2003 a request was submitted to change services from a children's daycare facility to a residential facility for children to be housed there 24-7. She found out this year that there was a dispute about the operation. City planning informed her that of January 1, 2009 that there had been a change. They wish for this variance to be granted because there is quite a bit of distance between her location and supposedly an existing facility on 617 Marsh St. She has been monitoring that facility and has not seen any traffic or any signs of business at that location. 617 Marsh Street is licensed as a family care home and has renewed their license. Mrs. Beamon was not aware from 2003 till May of 2009 that they were in competition with an existing or active facility. She states that if you drove from her location to the other location your car odometer would exceed a quarter mile.

There was no one speaking in opposition to the request.

The board discusses that without the photos and having read that these facilities are 600 feet apart they would not be inclined to support the variance. The circumstances of having Randleman Rd. and a waterway in between, it creates a very large natural barrier. The prevention of clustering is within a single neighborhood. Each facility is in a different neighborhood.

Mr. Brewington moved that in regard to BOA-09-23, 511 Lama Street, the finding as submitted by staff be incorporated and that the zoning enforcement officer be overruled and that the special exception be granted based on the fact that this special exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit, assures public safety and welfare, and does substantial justice. When looking at the geography and layouts of neighborhoods in this particular case, there is sufficient natural barriers and does not promote clustering that preserves the harmony, seconded by Mr. Shell. The Board voted 7-0 in favor of the motion. (Ayes: Cross, Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None.)

- (b) BOA-09-24: 4411 BELFIELD DRIVE James W. Kee, Jr. requests a Special Exception as authorized by Section 30-5-2.37(B) to allow a separation of 835 feet from one family care home (6 or less persons) to another family care home (6 or less persons) when 1,320 feet is required. Present Zoning-RS-9, BS-31, Cross Street-Lord Jeff Drive. (GRANTED)**

Loray Averett stated that the applicant is proposing to locate a family care home 835 feet from an existing family care home which is located at 8 Crite Court. The minimum spacing separation requirement is 1,320 feet. It is 485 feet too close. The lot is located on the north side of Belfield Drive north of Huffine Mill Road on zoning map block sheet 58. It is zoned RS-9 (Residential Single Family-9). The applicant is proposing to locate a family care home (6 or less persons) at 4411 Belfield Drive. It is approximately 835 feet from an existing family care home, which is located at 8 Crite Court. The homes are required to be separated by a minimum radius of ¼ mile, which is 1,320 linear feet. This location does not meet the minimum spacing requirement by 485 feet. The proposed family care will be separated from the existing family care home other single family homes and environmental buffers. The RS-9, Residential Single-Family District is primarily intended to accommodate moderate to high density single-family detached dwellings in developments where public water and sewer services are required. The overall gross density in RS-9 will typically be 4.0 units per acre or less.

Chair Cross asked if there was anyone wishing to speak on this matter.

Jim Kee, the applicant, 4301 Lord Jeff Drive, was sworn in and submitted photos. He stated that their case is similar to the previous case and are also requesting for a special exception for a family care home. There are significant factors that separate the two homes. A new subdivision called Nottingham Forest that separates Kings Forest, his location, and the Neil Town Farms family care home. A 3 foot wide creek also lies between each facility with a significant amount of wooded area. When driving from one home to the other it is approximately 1 mile driving distance.

Gaylon Oliver, 4214 Lord Jeff Drive, was sworn in and stated that they had already received approval when the city had coned the neighborhoods in January. They have all licensure to have the facility as well as a state license. Earlier this month they were informed of the issue of the other facility.

There was no one speaking in opposition to the request.

Mr. Brewington moved that in regard to BOA-09-24, 4411 Belfield Drive, the finding as submitted by staff be incorporated and that the zoning enforcement officer be overruled and that the special exception be granted based on the fact that this special exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit, assures public safety and welfare, and does substantial justice. There are significant barriers between the two neighborhoods such as wooded area and a 3 foot creek, seconded by Mr. Shell. The Board voted 7-0 in favor of the motion. (Ayes: Cross, Brewington, Pinto, Turner, Strickland, Shell and Trexler. Nays: None.)

OTHER BUSINESS

1. Proposed Ordinance text amendment to modify spacing requirements for family care homes

Rawls Howard stated that the staff was doing a study for the family care homes that has been an ongoing study for a number of months. They have identified roughly 30 conflict situations of homes being too close together. They have proposed a text amendment that has already passed through planning board with a unanimous approval. It is going to augment our spacing requirement measurements. The reason for doing this is for two reasons. One is based off of chronological logic from the board of adjustment of a period of years, how they hear the boards granting of special exceptions. When you start to see a trend we need to do a text amendment to the ordinance. Also out of this study being able to identify a number of conflicts and identifying there was an old system in place. This text amendment is to change the spacing requirements. You now have to meet two standards instead of one. The standards are that you have to meet the quarter mile on road travel instead of radial, but their will remain an as the crow flies standard of 660 feet. A grandfather clause will also allow the current home to be a legally nonconforming facilities. This is coming to city council to be approved.

ABSENCES:

The absence of Mr. Parmele and Mr. Pearce was acknowledged.

ADJOURN:

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There being no further business before the Board, the meeting was adjourned at 6:26 p.m,

Respectfully submitted,

Rick Pinto, Chair
Greensboro Board of Adjustment

RP/jd